

FILED**UNITED STATES DISTRICT COURT****OCT 28 2015**

for the

Northern District of West Virginia

**U.S. DISTRICT COURT-WVND
MARTINSBURG, WV 25401**

In the Matter of the Search of

*(Briefly describe the property to be searched
or identify the person by name and address)*IN THE MATTER OF THE SEARCH OF
VERIZON LG CELLULAR TELEPHONE, MODEL
LG-US450PP, SERIAL NO. 409CYDGO338458

Case No.

3:15mj94

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property *(identify the person or describe the property to be searched and give its location)*:

VERIZON LG CELLULAR TELEPHONE, MODEL LG-US450PP, SERIAL NO. 409CYDGO338458

located in the Northern District of West Virginia, there is now concealed *(identify the person or describe the property to be seized)*:

See Attached Affidavit

The basis for the search under Fed. R. Crim. P. 41(c) is *(check one or more)*:

- ☒ evidence of a crime;
- ☒ contraband, fruits of crime, or other items illegally possessed;
- ☒ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

<i>Code Section</i>	<i>Offense Description</i>
18 USC Section 2341, et. seq.	Trafficking in Contraband Cigarettes and Smokeless Tobacco

The application is based on these facts:
See Attached Affidavit

- ☒ Continued on the attached sheet.
- ☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

*Applicant's signature*

Sara K. Brady, Special Agent, HSI

Printed name and title

Sworn to before me and signed in my presence.

Date:

October 28, 2015*Judge's signature*City and state: Martinsburg, West Virginia

Robert W. Trumble, United States Magistrate Judge

Printed name and title

AFFIDAVIT IN SUPPORT OF AN APPLICATION FOR A SEARCH WARRANT

I, Special Agent Sara K. Brady, being first duly sworn, hereby depose and state as follows:

Introduction and Agent Background

1. Your affiant, Special Agent Sara K. Brady, has been a Special Agent with United States Homeland Security Investigations ("HSI") and has been involved in the investigations of numerous cases involving conspiracy and other financial crimes. I am familiar with the facts and circumstances set forth below from my participation in the investigation, my review of the investigative file, conversations with confidential sources of information, and information relayed to me by other law enforcement officers involved in the investigation. I have not included all of the facts known to me in this affidavit, just those facts which I believe necessary to establish probable cause. Where statements of others are set forth in this Affidavit, they are set forth in substance and in part. In addition, where dates or amounts are set forth in this Affidavit, they are set forth as on or about.
2. Your affiant has worked on investigations involving cigarette trafficking, including within the Northern District of West Virginia, and as such, is familiar with the actions, traits, habits and terminology utilized by cigarette traffickers. Your affiant is also familiar with the current "street" prices of these cigarettes for "street sales."

Purpose of the Affidavit

3. Under Rule 41(c) of the Federal Rules of Criminal Procedure, a warrant may be issued "to search for and seize any (1) property that constitutes evidence of the commission of a criminal offense; or (2) contraband, the fruits of crime, or things otherwise criminally possessed; or (3) property designed or intended for use or which is or has been used as the means of committing a criminal offense ..." This affidavit is presented to obtain a warrant to search for and seize property that constitutes evidence of the commission of a criminal offense and property intended for and used in committing a crime.

Thing to be Searched

4. Based upon the information detailed below, I have probable cause to obtain a Federal Search Warrant to search the following items which are currently located within the Northern District of West Virginia:
 - a. Verizon LG cellular telephone, model LG-US450PP, serial no. 409CYDG0338458;
 - b. Samsung tablet, model SM-T337A, serial no. R32G104BPQD;
 - c. HTC T-Mobile cellular telephone, serial no. HT057PR02804;
 - d. LG cellular phone model GPLG306GB, serial no. 408CQLH716352;
 - e. Plum cellular phone model B102, serial no. B102/SC6531/V1.0;

- f. Tracfone cellular telephone, model Z667G, serial no. 9B0421510395; and
- g. Royal Electronic Cash Register, serial no. 40970870.

Items to be Seized

- 5. The items I have probable cause to seize are data and stored material, including, but not limited to, voice and text messages, pictures, call lists, contact information, e-mails, applications, and telephone directories from the cellular telephones and tablet computer described above. I have probable cause to seize data and stored material, including, but not limited to receipts of sales transactions from the cash register described above.

Probable Cause Supporting the Search and Seizure

- 6. All of the information contained below is either personally known to the affiant or, as will be noted, has been provided by other law enforcement officers, named witnesses, confidential sources, or was obtained through information which was previously subpoenaed or seized.
- 7. Since at least December 2014, members of the Frederick County Sheriff's Office (Virginia) ("FCSO") and HSI have been involved in an investigation into cigarette trafficking by numerous subjects including Mohamed Abdo ELBARATI. The investigation included electronic surveillance of the subjects, and law enforcement officers have observed suspected bulk cigarette transactions.
- 8. During this investigation from December 2014 through April 2015, bulk cigarette transactions were arranged with ELBARATI by contacting him on telephone numbers (540) 409-8728, (540) 247-5611, (347) 776-7535, and (347) 788-3222. During the investigation, law enforcement officers learned that bulk cigarette customers of ELBARATI arranged their meetings with him via telephone.
- 9. Based on the information learned during the investigation, on June 4, 2015, the FCSO obtained a state search warrant to search ELBARATI's residence, located at 111 Asbury Road, Winchester, Virginia. Law enforcement officers seized the following items from ELBARATI's residence: (1) Verizon LG cellular telephone model LG-US450PP, serial number 409CYDG0338458; (2) Samsung tablet computer, model SM-T337A, serial no. R32G104BPQD; (3) HTC T-Mobile cellular telephone, serial no. HT057PR02804; (4) LG cellular phone model GPLG306GB, serial no. 408CQLH716352; and (5) Plum cellular phone model B102, serial no. B102/SC6531/V1.0.
- 10. Based on the information learned during the investigation, on June 4, 2015, the FCSO

obtained a state search warrant to search ELBARATI's business, SMOKE PALACE, located at 1848 Berryville Pike, Winchester, Virginia. Law enforcement officers seized the following items from ELBARATI's business: (1) Tracfone cellular telephone model Z667G, serial number 9B0421510395; and (2) Royal Electronic Cash Register, serial no. 40970870.

11. Based on your affiant's training and experience and information learned during the investigation, your affiant knows that the cash register seized from ELBARATI's business has a stored memory which would enable law enforcement officers to retrieve historical data for sales, which will include cigarette sales, in addition to other data and stored material.
12. On September 16, 2015, ELBARATI was named in all five counts of a Federal Indictment for cigarette smuggling offenses returned by a Federal grand jury sitting in Martinsburg, West Virginia. Count One of the Indictment alleges ELBARATI used a telephone to contact co-defendants to discuss the imminent purchase of contraband cigarettes which were being transported through the Northern District of West Virginia. The criminal activity alleged in the Indictment spans from December 2014 to April 2015.
13. Based on your affiant's training and experience, your affiant knows cigarette traffickers use communication devices, including cellular telephones and tablet computers, to send and receive information relating to bulk transactions via text or SMS messages, voice calling, e-mailing, applications, and other communication methods. Additionally, your affiant is aware that cellular telephones and tablet computers are capable of storing material, including but not limited to, photographs, contact information, notes, receipts, and other data which often coincides with criminal activity.
14. Evidence of the commission of a criminal offense may be contained in stored material, including, but not limited to, voice and text messages, photographs, call lists, contact information, e-mails, applications, notes, receipts, telephone directories on the following devices: (1) Tracfone cellular telephone, model Z667G, serial no. 9B0421510395; (2) Verizon LG cellular telephone, model LG-US450PP, serial no. 409CYDG0338458; (3) Samsung tablet, model SM-T337A, serial no. R32G104BPQD; (4) HTC T-Mobile cellular telephone, serial no. HT057PR02804; (5) LG cellular phone model GPLG306GB, serial no. 408CQLH716352; (6) Plum cellular phone model B102, serial no. B102/SC6531/V1.0; and (7) Royal Electronic Cash Register, serial no. 40970870.

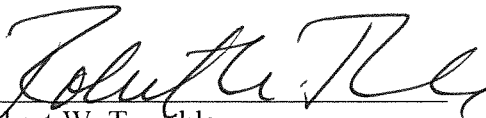
Oath

The information in this affidavit is true to the best of my knowledge and belief.

FURTHER AFFIANT SAYETH NAUGHT


Special Agent Sara K. Brady

Subscribed and sworn to before me on October 28, 2015.


Robert W. Trumble
United States Magistrate Judge
Northern District of West Virginia